In the High Court of Punjab and Haryana at Chandigarh

C.R. No. 5541 of 2006 (O&M)
Date of decision: 23-10-2006

Laiber Singh .....Petitioner

Versus

Harminder Singh ` .....Respondent

CORAM: Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.Bhavyadeep Walia, Advocate, for the petitioner.

VINOD K.SHARMA,J. (ORAL)

The present revision petition has been filed against the order dated 25-3-2006 passed by the learned Additional Civil Judge (Sr. Divn.), Malerkotla, rejecting the objections filed by the petitioner against the execution of the decree.

Primarily the challenge was made on the ground that the Court executing the decree was not competent Court to entertain and decide the same. However, this objection was rejected by the learned executing Court by holding that the decree for execution has been sent by the competent Court and, therefore, transferee Court had the jurisdiction in dealing with the matter. Accordingly, the objections have been dismissed.

There is a delay of 118 days in filing the revision petition. The reason for seeking condonation of delay was that the copy of the order was applied after the expiry date of limitation.

Learned counsel for the petitioner contends that there has been violation of order 21 Rule 22 of the Code of Civil Procedure as well as the provisions of Punjab Co-operative Societies Act. No such plea was raised before the executing Court and the same has been raised for the first time before this Court. The same cannot be said to be a question of law as the averments have to be proved on the basis of facts which may be pleaded and proved. Therefore, there is no merit in the revision petition and the same is dismissed on merit as well as on limitation.

October 23, 2006 **(VINOD K.SHARMA)**
'dls' **JUDGE**